

## REMARKS

The Office Action dated March 9, 2009, addresses claims 1-3, 5-12, 14-16, 18-25 and 27-30, rejecting all claims under 35 U.S.C. § 103(a) as being unpatentable over Bourne et al. (U.S. Patent No. 5,486,193, "Bourne") in view of Barbut et al. (U.S. Patent No. 6,592,546, "Barbut").

Applicants amend claims 1-3, 11, 14, 16, 24, 25 and 27-29, and adds new claims 31-37 to define additional aspects of the disclosure. Claims 12 and 30 are canceled without prejudice. No new matter has been introduced by this Amendment.

For all of the following reasons, Applicants respectfully request reconsideration and early allowance of the claims as currently amended.

### **Rejection of claims under 35 U.S.C. § 103(a)**

Applicants respectfully traverse the rejection of claims 1-3, 5-12, 14-16, 18-25 and 27-30 under 35 U.S.C. § 103(a) as being unpatentable over Bourne in view of Barbut. Applicants respectfully submit that the proposed combination of the Bourne and Barbut references fail to support a *prima facie* case of obviousness under 35 U.S.C. § 103. As set forth in the MPEP, to establish a *prima facie* case of obviousness under 35 U.S.C. § 103, the Office bears the burden of establishing each of three requirements. First, the references must teach or suggest each and every element and limitation recited in the claims. See M.P.E.P. § 2143.03. Second, the Office must establish that some suggestion or motivation exists, either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art, to modify the references to achieve the presently claimed invention. *See* M.P.E.P. § 2143.01. Third, the Office must establish a reasonable expectation of success for the proposed combination. *See* M.P.E.P. § 2143.02. In the present case, Applicants assert that independent claims 1, 14, 27 and 29 recite at least one limitation that is not taught, disclosed or suggested by Bourne and Barbut, either alone or in combination.

Independent claim 1, as amended, recites *inter alia*:

wherein said distal end of said distal portion  
comprises means for reducing air introduction into a  
patients's cardiovascular system when said  
percutaneous transluminal system is in use.

Claim 1, as amended, recites at least the limitation "means for reducing air introduction into a patient's cardiovascular system," which is neither disclosed nor suggested by Bourne or Barbut. Therefore, Applicants respectfully submit that the rejection of claim 1 under 35 U.S.C. § 103(a) should be withdrawn. Claims 2-3 and 5-12 depend from independent claim 1, and therefore, are patentable over Bourne and Barbut for at least the same reasons as claim 1.

Additionally, with regard to claims 2 and 3, the Examiner contends that Barbut teaches a beveled/chamfered end that receives an intracardiac device into the lumen of the distal portion of a front-end loader. *See* Office Action at p. 3. Applicants respectfully disagree with the Examiner. Nowhere does Barbut teach,

disclose or suggest a beveled end configured for receiving an intracardiac device into the lumen of a tube. Barbut merely illustrates a beveled edge at the distal end of the blood supply cannula 10 in FIGS. 1-9 and 29. Barbut does not teach, disclose or suggest that the beveled edge reduces the introduction of blood into a patient's cardiovascular system, nor does Barbut disclose or suggest that the beveled edge is configured for retrieving an intracardiac device. The blood supply cannula 10 of Barbut is simply adapted to carry blood to an artery, as described in col. 16, l. 58-59 of Barbut. Additionally, Applicants assert that Barbut does not in fact disclose a chamfered rim at the distal end of cannula 10, nor does Barbut provide any suggestions for chamfering the distal end. It bears emphasizing that "[o]bviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so." See MPEP § 2143.01. Applicants respectfully assert that in the present case, no teaching, motivation or suggestion for combining Bourne and Barbut exists in the references, or in the knowledge available to one of ordinary skill in the art. Therefore, Applicants request withdrawal of the rejection of claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over Bourne in view of Barbut.

Independent claim 14, as amended, recites *inter alia*:

wherein said distal end of said distal portion  
comprises means for facilitating retrieval of said  
intracardiac device from a patient's cardiovascular  
system into said lumen of said distal portion when  
said percutaneous transluminal system is in use.

Claim 14, as amended, recites at least the limitation “means for facilitating retrieval of said intracardiac device from a patient’s cardiovascular system,” which is neither disclosed nor suggested by Bourne or Barbut. Therefore, it is respectfully submitted that the rejection of claim 14 under 35 U.S.C. § 103(a) should be withdrawn. Claims 15-16 and 18-25 depend from independent claim 14, and therefore, are patentable over Bourne and Barbut for at least for the same reasons as claim 14.

Similarly, independent claim 27, as amended, recites in part, a distal portion comprising “means for reducing air introduction into the patients’ cardiovascular system,” which is not taught, disclosed or suggested by Bourne and Barbut, either alone or in combination. Therefore, claim 27 is not unpatentable over Bourne and Barbut under 35 U.S.C. § 103(a). Claim 28 depends from independent claim 27, and therefore, is patentable over Bourne and Barbut at least for the same reasons as claim 27.

Also, independent claim 29, as amended, recites in part, a distal portion comprising “means for facilitating retrieval of said intracardiac device,” which is not taught, disclosed or suggested by Bourne and Barbut, either alone or in combination. Therefore, claim 29 is patentable over Bourne and Barbut for at least the above reason.

New claims 31-37 have been added. To the extent the rejections of claims 1-3, 5-12, 14-16, 18-25 and 27-30 are applicable to these claims, Applicants

respectfully submit that neither Bourne nor Barbut disclose or suggest a beveled edge for reducing introduction of air into a patient's cardiovascular system, or a chamfered rim for facilitating the retrieval of an intracardiac device. With regard to independent claim 35, Applicants respectfully submit that, at the very least, neither Bourne nor Barbut disclose the limitation "wherein said tube comprises a chamfered rim around the inner perimeter of said beveled edge." As discussed earlier in this response, Barbut does not disclose a chamfered rim at the distal end of cannula 10, nor does Barbut provide any suggestions for chamfering the distal end. Applicants, therefore, respectfully request consideration and timely allowance of these new claims.

**CONCLUSION**

In view of the foregoing remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the claims as amended.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON,  
FARABOW, GARRETT & DUNNER,  
L.L.P.

Dated: June 9, 2009

*/Eric P. Raciti/*  
By: \_\_\_\_\_  
Eric P. Raciti  
Reg. No. 41,475